

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. WRU-02-34-272
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ORDER GRANTING WAIVER

(Issued October 9, 2002)

On September 13, 2002, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a request for waiver of Iowa Code §§ 476.76 and 476.77 (2001) and 199 IAC 32.8 with respect to the proposed sale and transfer of some of Qwest's out-of-state assets located in Washington. The request has been identified as Docket No. WRU-02-34-272.

On August 20, 2002, Qwest entered into a letter of intent with the city of Bellevue, Washington in which Qwest agreed to sell its property located at 450 100th Avenue in that city. The property currently serves as computer and general administrative office space. Qwest will continue to occupy a portion of this property after the sale and does not believe there will be any impact on customer service in Iowa as a result.

Iowa Code §§ 476.76 and 476.77 and 199 IAC 32.8 require public utility reorganizations to be submitted to the Board for review or approval. Iowa Code § 476.76 defines a reorganization to include the acquisition, sale, lease, or any other disposition, directly or indirectly, including merger or consolidation, of the whole or

any substantial part of a public utility's assets. Iowa Code § 476.77 provides that the Board may adopt rules which exempt a public utility from the filing requirements of that section if the Board finds review is not necessary in the public interest. The Board promulgated rules regarding reorganizations, including waivers or exemptions, in 199 IAC 32. The standards for review of a request for a waiver in § 476.77 indicate the important question is the effect of the acquisition or sale on the utility's ratepayers and the public interest. The Board stated when adopting an amendment to chapter 32, that waivers will be liberally granted where the proposed reorganization has minimal or no impact on Iowa ratepayers. "Order Adopting Rules," In re: Disposal of a Public Utility's Assets, Docket No. RMU-91-2 (April 24, 1992).

Because this transaction of Qwest's assets is a sale-leaseback of primarily administrative facilities outside of Iowa, with no impact on service provisioning, there should not be any detrimental effect on Qwest's Iowa customers or service.

To grant the waiver, the Board must also find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of Iowa Code § 476.76 and 476.77 and 199 IAC 32.8 should be granted based on the Board's review of the information

provided by Qwest in its pleading. The Board finds it would be an undue hardship for Qwest to meet the filing requirements of 199 IAC 32 for this sale, since the sale will have minimal or no effect on Iowa ratepayers and review of the reorganization is not necessary in the public interest.

The Board also finds that the waiver will not affect the substantial legal rights of any person and that Iowa Code § 476.77 specifically allows for the waiver of the Board's rules. Additionally, the Board finds that substantially equal protection of the public health, safety, and welfare will be afforded since none of the assets being transferred by the sale are in Iowa and the sale will not affect Iowa ratepayers.

IT IS THEREFORE ORDERED:

The waiver request filed by Qwest Corporation on September 13, 2002, is granted. The application of Iowa Code §§ 476.76 and 476.77 (2001) and 199 IAC 32.8 to the sale and transfer of Qwest's proposed out-of-state properties is waived.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of October, 2002.